

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 523A.809, the Insurance Division (the Division) hereby amends Chapter 100, “Sales of Cemetery Merchandise, Funeral Merchandise and Funeral Services,” Iowa Administrative Code.

Chapter 100 provides for the Iowa Insurance Commissioner’s administration of the provisions of Iowa Code chapter 523A, relating to the regulation of the sales of cemetery merchandise, funeral merchandise, and funeral services; the establishment and maintenance of trust funds; and the administration of violations of Iowa Code chapter 523A or Chapter 100. The amendments to Chapter 100 do the following:

- Clarify that preneed sellers must maintain records of the sales agents who have made sales on behalf of the preneed sellers and that preneed sellers shall report to the Division each year the names of any affiliated sales agents.
- Clarify how preneed sellers and financial institutions should create and report funds and transactions of master trust agreement accounts.
- Remove references to 2015 Iowa Acts, as the Acts have been incorporated into the 2016 Iowa Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 3, 2016, as **ARC 2667C**. A public hearing was held on August 23, 2016, and written comments were accepted through that date. No comments were received. Since publication of the Notice, one nonsubstantive, technical change has been made. For consistency, the term “transaction” was changed to “transactions” in subparagraph 100.19(2)“b”(3).

These amendments are subject to waiver consistent with the waiver provisions provided at 191—Chapter 4.

These amendments impose no fiscal impact to the State.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 523A.

These amendments shall become effective November 2, 2016.

The following amendments are adopted.

ITEM 1. Amend rule 191—100.1(523A) as follows:

191—100.1(523A) Purpose. This chapter is promulgated to implement and administer Iowa Code chapter 523A ~~as amended by 2015 Iowa Acts, House File 632~~, which regulates the sale of cemetery merchandise, funeral merchandise, funeral services and any combination of those items.

ITEM 2. Amend subrule 100.15(1) as follows:

100.15(1) Procedure for renewal. The commissioner shall renew preneed sellers’ licenses, pursuant to Iowa Code section 523A.501(7) ~~as amended by 2015 Iowa Acts, House File 632, section 38~~, or sales agents’ licenses, pursuant to Iowa Code section 523A.502(5) ~~as amended by 2015 Iowa Acts, House File 632, section 39~~, for both active and restricted status licenses, if the preneed sellers or sales agents provide to the commissioner all of the following, which must be received by the commissioner on or before April 15 of each year:

a. Annual report. A preneed seller or sales agent shall file a complete and accurate annual report in the form and manner directed by the commissioner. A preneed seller’s report must include information on affiliated sales agents as provided in the instructions. The form and instructions may be obtained through the commissioner’s Web site.

b. and c. No change.

ITEM 3. Adopt the following new rule 191—100.19(523A):

191—100.19(523A) Master trusts.

100.19(1) *Creation of master trusts.* Pursuant to Iowa Code section 523A.203, a preneed seller may commingle the care funds of multiple beneficiaries in a master trust. When a preneed seller enters into a master trust agreement and establishes a master trust agreement at a financial institution:

a. The title of the financial account shall include the name of the preneed seller and be identified as a master trust account.

b. Either the preneed seller or the financial institution shall be the trustee of the master trust account.

c. Either the preneed seller or the financial institution shall maintain the detailed listing as required by Iowa Code section 523A.203(3) by keeping the following:

- (1) One listing of the amount deposited in trust for each beneficiary; and
- (2) A separate accounting of each purchaser's principal, interest, and income, and balance in trust for each beneficiary who has care funds in the master trust account.

100.19(2) *Reporting of master trusts.*

a. As part of the preneed seller's annual report required by paragraph 100.15(1) "a," a preneed seller shall submit all of the following:

- (1) The aggregate amount of deposits made to the master trust account during the calendar year.
- (2) The aggregate amount of withdrawals made from the master trust account during the calendar year.

(3) Information detailing the name of any beneficiary related to a deposit to or withdrawal from the master trust account with the amount deposited or withdrawn by the beneficiary. The report shall include aggregate amounts of deposits and withdrawals for each beneficiary.

(4) Transactions, as described in the division's instructions for the annual report, for the calendar year in which the transactions took place.

b. A financial institution shall submit a report annually that includes all of the following information relating to activities in the master trust:

(1) The aggregate amount of deposits made to the master trust account for each beneficiary during the calendar year.

(2) The aggregate amount of withdrawals made from the master trust account for each beneficiary during the calendar year.

(3) Transactions, as described in the division's instructions for the annual report, for the calendar year in which the transactions took place.

(4) A copy of the bank account statement for the master trust account.

ITEM 4. Adopt the following new paragraph **100.33(1) "f"**:

f. Record of sales agents. A preneed seller shall maintain a list of all sales agents who sold purchase agreements on behalf of the preneed seller during each calendar year. The records shall include the license number of each sales agent and the dates of the sales agent's employment. Upon the commissioner's request, these records shall be provided to the commissioner.

ITEM 5. Amend **191—Chapter 100**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 523A as amended by 2015 Iowa Acts, House File 632.

[Filed 9/8/16, effective 11/2/16]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/28/16.